



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

शिमला, शुक्रवार, 23 अगस्त, 2013 / 1 भाद्रपद, 1935

हिमाचल प्रदेश सरकार

बहुउद्देशीय परियोजनाएँ एवं विद्युत विभाग

अधिसूचना

तारीख: 19 अगस्त, 2013.

संख्या: विद्युत-छ: (5)-43/2011.—यतः हिमाचल प्रदेश के राज्यपाल को यह प्रतीत होता है कि सतलुज जल विद्युत निगम लिमिटेड, जो कि भू-अर्जन अधिनियम, 1894 (1894 का पहला अधिनियम) की धारा-3 के खण्ड (सी.सी.) के अन्तर्गत केन्द्रीय सरकार के स्वामित्व और नियन्त्रण के अधीन एक निगम है, को अब निम्नलिखित भूमि की सार्वजनिक प्रयोजन हेतु अर्जित करने की आवश्यकता नहीं है।

2. अतः अब राज्यपाल, हिमाचल प्रदेश, यह अधिसूचना ऐसे व्यक्तियों को, जो इससे सम्बन्धित हो सकते हैं, की जानकारी के लिए भू-अर्जन अधिनियम, 1894 की धारा-48 के अन्तर्गत प्रदत्त शक्तियों का प्रयोग करते हुए इस विभाग द्वारा जारी की गई समसंख्यक अधिसूचना दिनांक 24 दिसम्बर, 2011 तथा 10 अप्रैल, 2012 जो कि क्रमशः भू-अर्जन अधिनियम, 1894 की धारा-4 तथा 6 व 7 के अन्तर्गत मुहाल सुजानपुर, तहसील सुजानपुर, जिला हमीरपुर, हिमाचल प्रदेश में धौलासिद्ध जल विद्युत परियोजना के निर्माण हेतु भूमि अर्जित करने के लिए जारी की गई थी, में से निम्न विवरणी में विनिर्दिष्ट है, भूमि को अधिग्रहण करने की कार्यवाही से सहर्ष वापिस लेते हैं।

विवरणी

जिला	तहसील	गांव	खसरा नं०	रकवा (कनाल— मरले में)
हमीरपुर	सुजानपुर	सुजानपुर	791 / 1	1-10
			कुल कित्ता— 1	कुल रकवा— 1-10

आदेश द्वारा,
हस्ताक्षरित /—
प्रधान सचिव (विद्युत)।

LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATION

Shimla-2, the 21th August, 2013

No. Sharm (A) 7-1/2005-1 (Award) Shimla.—In exercise of the powers vested under section 17(1) of the Industrial Disputes Act, 1947, the Governor Himachal Pradesh is pleased to order the publication of awards of the following cases announced by the Presiding Officer, Labour Court Shimla on the website of the Department of Labour & Employment of the Government of Himachal Pradesh:—

Sr. No.	Case No: July, 2013	Title of the Case	Date of Award
1.	43/2009	Shri Baam Dev V/s Factory Manager Ayurvet Ltd, Solan.	3-7-2013
2.	01/2013	Workers of M/S Landis + Gyr Ltd V/s factory Manager/Occupier M/S Landis + Gyr Ltd, Baddi.	5-7-2013
3.	38/2010	Shri Sanjay Kumar V/s M/S Deepak Spinners Ltd, Baddi.	3-7-2013
4.	16/2012	Smt Bhago Devi V/s CHT Incharge Govt. Primary School Kumarhatti.	30-7-2013
5.	115/2007	Shri Heera Singh V/s M/S Himalaya Chemical Ladhi.	6-7-2013

6.	81/2010	Sh. Brij Kishore V/s Secy. Kalash Copt. Society Baddi.	20-7-2013
7.	55/2011	Sh. R. L. Dogra V/s HRTC Shimla.	12-7-2013

By order,
Sd/-

Pr. Secretary (Labour & Employment).

**IN THE COURT OF A. S. JASWAL, PRESIDING JUDGE, HP INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA CAMP AT NALAGARH**

Ref. No. : 43 of 2009
Instituted on : 15-6-2009
Decided on : 3-7-2013

Baam Dev Singh S/o Shri Dalip Singh R/o Vilage Sunami, P.O. Salouni, Tehsil Barsar,
District Hamirpur, HP. *.Petitioner.*

Vs.

The Factory Manager Ayurvet Ltd., Vilage Katha, P.O Baddi, Tehsil Nalagarh, District
Solan. HP. *.Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri J.C Bhardwaj, AR
For respondent : Shri Rajeev Sharma, Advocate.

AWARD

The reference for adjudication, is as under:—

"Whether the termination of the services of Shri Baam Dev Singh S/o Shri Dalip Singh by the Factory Manager Ayurvet Ltd., Vilage Katha, P.O Baddi, Tehsil Nalagarh, District Solan. HP w.e.f. 16.11.2006 without complying the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what relief and consequential service benefits including compensation the above aggrieved worker is entitled to.?"

2. Consequent upon the receiving of this reference, in this Court, the petitioner had filed claim petition wherein he stated that on 22.2.2005, he was appointed as peon in the respondent factory which at that time was under construction. He remained engaged as such, till 16.11.2006, when he was illegally removed from services, orally. It is further alleged that he had remained in continuous service as he worked for more than 240 days, in the employment of the respondent, in each year, including twelve calendar months preceeding his termination. Even, his juniors were retained in employment. In this way, the respondent violated sections 25-G & 25-H of the Act. Even, the mandatory procedure contained in section 25-F was not complied with.

3. The claim of the petitioner has been contested on having raised preliminary objections qua maintainability and that he has not come before this Court with clean hands. On merits, it has been averred that the petitioner, intermittently had worked with the contractor of the respondent during project phase of the company which came into existence in the month of October, 2005. Thus, his contention to have joined the respondent company in the month of Feb., 2005 is totally wrong. Other allegations denied.

4. Pleadings of the parties gave rise to the following issues which were struck on 22-8-2012.

1. Whether the termination of the services of petitioner by the respondent w.e.f. 16.11.2006 is in violation of the provisions of Industrial disputes ASct, 1947? . .*OPP*.
2. If issue no.1 is proved, to what relief and consequential benefits, the petitioner is entitled to? . .*OPP*.
3. Whether this petition is not maintainable as alleged? . .*OPR*.
4. Relief.

5. Before, I proceed further it is pertinent to mention that since the petitioner failed to lead evidence despite several opportunities, his evidence had to be closed, as per order dated 3-7-2013, for the reasons narrated therein. For his failure to have led evidence, the respondent also did not lead any evidence.

6. For the reasons, to be recorded hereinafter, my findings on the aforesaid issues are asw under:

Issue no. 1. No.

Issue no. 2. Become redundant

Issue no. 3. No.

Relief. Reference answered against the petitioner and in favour of respondent as per award.

Issue No. 1

7. The contention of the petitioner is to this effect that his services were illegally terminated w.e.f. 16.11.2006 without complying with the provisions of the Act. In support of his such contention, neither he has examined himself nor any other witness. Since, he failed to examine himself as his own witness, the facts as stated in the petition, do not get substantiated. In this way, the petitioner has been unable to prove that his services had been terminated in violation of the provisions of the Act as alleged in the petition. Thus, I without hesitation hold that he has failed to prove issue no.1 to which my answer is "No".

Issue No. 2

8. For the failure of the petitioner to have proved issue no.1, this issue becomes redundant.

Issue No. 3

9. It could not be proved on record as to why this petition is not maintainable. As, this petition has been filed by the petitioner, consequent upon the reference which has been made to this Court, by the appropriate government, I hold it to be maintainable. Thus, my answer to this issue is "No".

Relief

As a sequel to my findings on the aforesaid issues, the claim of the petitioner is dismissed, Consequently, the reference stands answered against him and in favour of the respondent. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open court today this day of 3rd July, 2013.

By order,
A. S. JASWAL,
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla
Camp at Nalagarh.

**IN THE COURT OF A.S JASWAL, PRESIDING JUDGE, INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA.**

Ref. No. : 16 of 2012
Instituted on : 31-5-2012
Decided on : 30-7-2012

Bhago Devi W/o Shri Sant Ram, R/o Village Kumarhatti, P.O Goyala Pannar, Tehsil Nalagarh, District Solan, H.P. . .Petitioner.

VERSUS

1. Government Primary School Kumarhatti, Tehsil Nalagarh, District Solan, HP.
2. Pradhan/Secretary VEC Committee, GPS, Kumarhatti, Tehsil Nalagarh, District Solan, HP. . .Respondents.

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner: Shri Dinesh Banot, Advocate.

For respondents: Already exparte.

AWARD

The reference for adjudication is as under :—

“Whether the termination of services of Bhago Devi W/o Shri Sant Ram, R/o Village Kumarhatti, P.O Goyala Pannar, Tehsil Nalagarh, District Solan, HP who was

appointed as Mid Day Meal worker in Government Primary School, Kumarhatti, P.O Goyala Pannar, Tehsil Nalagarh, District Solan HP by the Pradhan/Secretary VEC Committee, GPS Kummarhatti w.e.f. 8.2.2010 without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, to what amount of back wages, seniority, past service benefits and compensation the above aggrieved workman is entitled to?"

2. The contention of the petitioner is that for the last more than five years, she had been working with the respondents as Mid Day Meal Worker, in Government Primary School, Kumarhatti, Tehsil Nalagarh, District Solan, HP on monthly wages of Rs. 300/-. On 8.2.2010, her services had been retrenched without complying with the principle of last come first go. Even, her junior had been retained in service. It has further been clarified that Smt. Savitri Devi, who has been working as Mid Day Meal Worker for the last three years, has been retained in service despite the fact that she (petitioner) had put in five years of service and for this reason, she was senior to said Smt. Savitri Devi. Against this backdrop, a prayer has been made to reinstate her by setting aside the retrenchment order and also to pay her consequential benefits, like back wages as well as seniority.

3. Notices were issued to the respondents who were duly served and for them, as is evident from the record, Smt. Prem Lata, AR appeared for respondent no.1 and Ms. Meghna Thakur, Advocate put her presence for respondent no. 2. On 29.12.2012, when the case was fixed, none appeared on behalf of respondents and as such they were proceeded against exparte.

4. By way of exparte evidence, the petitioner examined herself as PW-1. Documentary evidence also rendered.

5. Besides having heard the exparte arguments, I have also carefully gone through the material on record.

6. It has been specifically alleged by the petitioner that before her retrenchment from service, being Mid Day Meal Worker, in Government Primary School, Kumarhatti, she had already put in five years of service. She further averred that without having complied with the principle of last come first go, her services were retrenched on 8.2.2010. Even, her junior Smt. Savitri Devi, who has put in three years of service, as Mid Day Meal Worker, has been retained, whereas, her services were terminated despite the fact that she was senior to said Smt. Savitri Devi.

7. In her evidence, the petitioner (PW-1) has testified that she had been engaged as Mid Day Meal Worker by the respondents since, 2004 at Government Primary School, Kumarhatti, on monthly wages of Rs. 200/- which later on came to be enhanced to Rs. 400/-. In every calendar year, she had worked for more than 240 days. On 8.2.2010, she was disengaged from service, orally, without any reason. At that time, no notice and compensation had been paid to her. Smt. Savitri Devi, junior to her, has been still working with the respondents whereas she stood retrenched. To the BPO, she had made a representation vide Ex. PA but of no avail.

8. From the evidence which has been led by the petitioner, it is duly proved that she had been engaged as Mid Day Meal Worker by the respondents in the year, 2004 and that when her services were disengaged, she had already put in more than five years of service. Her evidence further goes to show that in every calendar year, she had worked for more than 240 days. Since, for the failure of the respondents to have contested this petition, for having been proceeded against exparte, there is no material, before this Court, which could go to show that in the preceding year before her retrenchment, the petitioner had not completed 240 days. In the absence of such, it is required to be held that she had been in continuous service, precedent to her retrenchment. In these

circumstances, the respondents were required to have complied with section 25-F of the Industrial Disputes act, 1947 (hereinafter referred as Act). To comply with the aforesaid section, the petitioner was required to be given one month's notice in writing indicating the reasons for her retrenchment or she was required to be paid, in lieu of such notice, wages for the period of the notice. Further, as per the aforesaid section, compensation which was to be equivalent to fifteen days average pay, for every completed year of continuous service or any part thereof in excess of six months was also required to be paid to her. In the instant case, as is evident from the statement of the petitioner (PW-1), no notice or retrenchment compensation had been paid to the petitioner.

9. Apart from this, since, Smt. Savitri Devi who is junior to the petitioner, continued to remain working with the respondents, further goes to show that while retrenching the petitioner, procedure as laid down in section 25-G of the Act had also not been complied with. If, the respondents were to retrench any workman, in that event, the workman who was the last person to be employed in that category, was to be retrenched. In case, some other workman was required to be retrenched, in that event, the employers (respondents), were to record reasons, for such retrenchment. In the instant case, it is quite clear, from the evidence of the petitioner (PW-1), that her junior Smt. Savitri Devi is still in service with the respondents, If the respondents were to order retrenchment of a workman, in that event, Smt. Savitri Devi who was junior to the petitioner, was required to be retrenched instead of the petitioner. This clearly goes to show that there had been violation of the procedure as laid down in section 25-G of the Act.

10. It has been rightly argued on behalf of the petitioner that without having complied with the provisions of the Act, the services of the petitioner had been retrenched w.e.f. 8.2.2010 by the respondents. Since, the retrenchment of the petitioner had been ordered/effectuated in violation of the provisions of the Act, her disengagement order dated 8.2.2010 is required to be set aside and accordingly it is set aside and the petitioner is ordered to be reinstated in service with seniority and continuity. Since, there is no evidence on record, which could go to show that the petitioner is not gainfully employed after being retrenched by the respondents, her reinstatement in service is ordered without back wages. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open court today on this 30th Day of July, 2013.

By order,
A.S. JASWAL,
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**IN THE COURT OF A.S JASWAL, PRESIDING JUDGE, HP INDUSTRIAL
TRIBUNAL-CUM- LABOUR COURT, SHIMLA.**

Ref. no. : 81 of 2010
Instituted on : 30-6-2010
Decided on : 26-7-2013

Brij Kishore S/o Shri Dashrath R/o Pump House, The Kailash Co-operative Housing Building society, Ltd., Kailash Vihar, Baddi, District Solan, HP. . *Petitioner.*

/S

The Secretary, The Kailash Co-operative Housing Building society, Ltd., Kailash Vihar, Baddi, District Solan, HP. . *Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner: Shri Rupesh Sharma, Advocate

For respondent: Shri Rajkumar, Advocate.

AWARD

The reference for adjudication, is as under:—

"Whether the termination of the services of Shri Brij Kishore S/o Shri Dashrath by the Secretary, The Kailash Co-operative Housing Building society, Ltd., Kailash Vihar, Baddi, District Solan, HP w.e.f. 11.1.2009 without following the provisions of the Industrial Disputes Act, 1947 as alleged by workman is proper and justified? If not, what relief and consequential service benefits the above worker is entitled to from the above employer?"

2. It has been alleged by the petitioner that he was appointed as Plumber, on the pump house of the Kailash Co-operative House Building Society Ltd., Kailash Vihar, Baddi, District Solan, HP (hereinafter referred as Society), since 1991, on monthly wages of ₹ 3500/-. On 11.1.2009, his services were illegally terminated, without serving any chargesheet, by the respondent. Even, no copies of alleged complaints had been supplied to him. The respondent also did not get conducted preliminary enquiry as was required under law. Before his termination, he had completed 240 days in each calendar year and performed his work/duties honestly. He had been performing his duties as per the directions of the respondent. It is further alleged that the alleged enquiry committee had never issued any notice to him, in order to take part in the alleged enquiry proceedings. Even, he had not been issued proposed penalty-cum- second show cause notice. For the failure of the respondent to have adopted the said procedure of law and rules, as laid down in the Industrial Employment (Standing Orders) Act, 1946 and Industrial Employment (Standing Orders) Rules of Himachal Pradesh 1973 (amended rules 1991), the termination letter dated 11.1.2009 is illegal. It is further said that the order dated 11.1.2009, is not a speaking one and prior to it, the petitioner had not been heard. Thus, the penalty imposed upon him is totally wrong. Against this backdrop, a prayer has been made to reinstate him in the employment of the respondent with retrospective effect *i.e* 11.1.2009 with full back wages and other incidental benefits like increments and continuity in service.

3. The petition has been contested by stating that right from 1991 till 2007, the petitioner had been working as a private contractor. He was engaged as pump operator w.e.f. 17.3.2007, on monthly salary of ₹ 3500/-, and worked as such till 30.10.2007. For this period, he was paid an amount of ₹ 26,016/-. Thereafter, he worked upto 18.9.2008 and was paid regular salary. However, after 18.9.2008, he did not attend to his duties, as he absented himself. For this reason, the water supply was adversely affected. Consequent there upon, residents of the Society complained against him in writing. Although, he (petitioner) was called upon to explain his position but of no avail. Finally, it was resolved by the general committee of the society to call upon him in order to explain his position and in this regard, a letter dated 4.11.2008 was issued to him but no reply thereto was furnished. For his failure to file reply, he (petitioner) was issued chargesheet, which was sent by registered post, with a direction to reply the same within seven days from its receipt. Vide resolution dated 16.11.2008, it was resolved by the managing committee, as per proposal passed by the general house committee, held on 9.11.2008, to get the matter enquired by constituting three members committee comprising of Mr. Dinesh Kaushal, Hem Raj Chaudhary and Mr. M.L Sharma, residents of the society. As per the principles of natural justice, the petitioner had been afforded a reasonable opportunity of being heard by the committee. Thereafter, the committee submitted its

report holding that all the charges stood proved against the petitioner. On having considered the report, the managing committee had sent the resolution along-with enquiry report to the Ld. Assistant Registrar, Co-operative Societies, Solan (hereinafter referred as Assistant Registrar), the competent authority, to take a final decision in the matter. On having considered the resolution of the managing committee and also the enquiry report, the Assistant Registrar got an independent enquiry conducted through Block Inspector, Co-operative Societies, Nalagarh (hereinafter referred as Block Inspector) vide letter no. 712 dated 21.9.2009. As per the report submitted by the Block Inspector, the petitioner had been stated, not to be performing his duties diligently. For this reason, the decision to dismiss him from service had to be taken. Thus, the Assistant Registrar accorded his approval in this regard vide letter dated 2.7.2009 which was received by the society on 6.7.2009. Upon this, the managing committee vide resolution no. 2 dated 19.7.2009, dismissed the petitioner from service with immediate effect vide letter dated 23.7.2009. It is further averred that since, he had not worked during the period from 18.9.2008, he was not granted any benefits, of salary and other benefits having regard to the major punishment, imposed upon him and also keeping in view his behavior and conduct while in service. Thus, the action of the respondent is legal and valid and there is no illegality or impropriety, in the order, under challenge. It is further explained that since the petitioner had refused to accept any letter/chargesheet, the respondent had no other option but to proceed against him exparte, as required under law. It is further stated that the petitioner had also approached various Courts/ Forums in as much as the Ld. Civil Judge, Senior Division, Nalagarh by way of C.S No. 383/60/2008 which was dismissed for want of jurisdiction. In that suit, he had specifically alleged that he was serving as pump operator with the respondent but subsequently he changed his designation from pump operator to plumber, on having come to know that the pump in the society had been installed in the year 1996. Other allegations denied.

4. By filling rejoinder, the petitioner reaffirmed his own allegations by denying those of the respondent.

5. The pleadings of the parties gave rise to the following issues which were struck on 9-8-2011.

1. Whether the termination of services of petitioner by the respondent w.e.f. 11-1-2009 is in violation of the provisions of the Industrial Disputes Act, 1947? . . . *OPP.*
2. If issue no. 1 is proved in affirmative, to what relief, the petitioner is entitled to? . . . *OPP.*
3. Relief.

6. I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

7. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under.

Issue No.1	No
Issue No. 2	Becomes redundant.
Relief.	Reference answered against the petitioner as per operative part of award.

Reasons for findings

Issue No. 1.

8. It has been specifically alleged by the petitioner that he had been appointed/engaged as plumber by the respondent on pump house since 1991 and that in each calendar year, he had completed 240 days. He has also averred the termination letter dated 11.1.2009 to be illegal for the

reason that the respondent had not adopted the set procedure of law and rule as laid down and further that no chargesheet had been served upon him. Even, the copies of alleged complaints, made by the residents of the society, had not been supplied to him.

9. On the other hand, the contention of the respondent is to this effect that right from 1991 till 2007, the petitioner had been working as private contractor and that w.e.f. 17.3.2007, he had been engaged as pump operator on monthly salary of ₹ 3500/- and that he had worked upto 30.10.2007, for which ₹ 26,016/- were paid to him. Thereafter, he worked upto 18.9.2008 for which, salary was being paid regularly to him. After 18.9.2008, he did not attend his duties and absented himself. The contention of the respondent is further to this effect that when the residents of the society had made complaints against him, the petitioner was called upon to explain his position but of no avail and thus, he was issued chargesheet which was sent to him through registered post but the same was not replied by him within the stipulated period i.e seven days from the receipt of the same. Thus, a three members committee was constituted to conduct enquiry against the petitioner for the allegations/charges leveled against him. It is further said that since the petitioner had chosen not to participate in the enquiry proceedings and also did not file any reply to the communications issued to him, there was no other option except to proceed against him *ex parte*.

10. In support of his case, the petitioner has examined himself as PW-1. By way of his chief examination, he has filed his affidavit Ex. PW-1/A and also tendered a certificate Ex. PW-1/B (objected to). In his affidavit (Ex. PW-1/A), he stated that he had been engaged/appointed as pump operator since 1991 and the respondent had also been taking the work of plumber from him. In every calendar year, he had been completing 240 days. In the year, 2008, when Shri Mehar Chand Guleria became the president of the society, he started harassing him. On 1.11.2009, his services were wrongly/illegally terminated without serving, upon him, any chargesheet or conducting preliminary enquiry. He had not been called by the enquiry officer. In the cross-examination, he denied that Ex. PW-1/B (objected to) had not been issued by the president of the society. He further denied to have got prepared a forged certificate on the letter pad of the society. He admitted that he had been working with a private contractor. Further, explained that, on part time basis, he had been working as such. He denied to have left the job on 18.9.2008, on his own. He further denied that when he did not turn up to perform his job, the residents of the society made complaints against him. He admitted that the society had issued him a chargesheet, which is Ex. R-1 and he did not reply to the same. He explained that orally, he had a talk in this regard. He had also received chargesheet Ex. R-2. He denied that the society had got conducted an enquiry against him and that in the same, the charges, which had been leveled against him, stood proved. 11. When regard is given to the affidavit, Ex. PW-1/A, of the petitioner, it is revealed that as per the version made therein, he was removed from service w.e.f. 1.11.2009. It is to be clarified that when regard is given to facts, as narrated, in para no.4 of his claim petition, it is highlighted that his services had been illegally terminated on 11.1.2009 without chargesheet and not as stated in the affidavit i.e 1.11.2009. In the affidavit, he has further stated that neither any chargesheet had been served upon him nor he had been called by the enquiry officer. Before, I proceed further, it needs to be clarified that the certificate Ex. PW-1/B, on which the petitioner has relied upon, in order to show that since 1991, he had been working as pump operator, has not been proved, in evidence, as per law. Its perusal goes to show that one Shri Shami Sahni, President of the society had issued this certificate but the petitioner had not examined said Shami Sahni. It is further to be noted that this certificate, Ex. PW 1/B, had been received in evidence subject to objection. Since, the petitioner did not examine Shri Shami Sahni, the author of this certificate, the same remained not to be proved in accordance with law. Further, when regard is given to the affidavit of Shri Vijay Kumar, Ex. RW-1/A, when he appeared in the witness box as RW-1, it has come on record that the petitioner had been engaged as pump operator w.e.f. 17.3.2007. He has also stated that Ex. RW-1/M, is the receipt as per which the salary /wages had been paid to the petitioner. This receipt also goes to show that the petitioner had been paid salary from 17.3.2007 to 30.10.2007, total amounting to ₹ 26,016/-.

From the evidence, which has been led by the respondent, it needs to be believed that the petitioner had been engaged as pump operator w.e.f. 17.3.2007 and not as alleged from the year, 1991. This goes to show that on false/wrong facts, the petitioner has moved this Court. 12. It has been admitted by the petitioner (PW-1) that he had received Ex. R-1 and Ex. R-2, to which, he did not reply. The perusal of Ex. R 1 & Ex. R-2 goes to show that the petitioner had been made known that since 18.9.2008, he had been absenting himself from duties. Through, Ex. R-2, the petitioner had also been asked to file his version, in writing, in regard of the failure of the inhabitants of the society to have got water from 23.10.2008 (6:30 PM) till 24.10.2008 (9:00 AM). Since, the petitioner has admitted to have received Ex, R-1 & Ex. R-2, this goes to show that he was not inclined to reply to the communications which were being sent to him. In the evidence of Vijay Kumar (RW-1), it has also come that Ex. RW-1/B is the copy of complaint. He further stated that Ex. PW-1/C is the letter, as per which, the petitioner had been supplied enquiry report and other documents. Ex. RW-1/D, is the letter dated 2.11.2008. Ex. PW-1/G is the memorandum and Ex. PW-1/H is its receipt. Ex. PW-1/J, is the office order. In the cross-examination, he denied that no chargesheet had been supplied to the petitioner and that he had not been called in the preliminary enquiry.

13. When regard is given to the evidence of Vijay Kumar (RW-1), it becomes quite clear that the charges which had been leveled against the petitioner, were sent to him through letter Ex. RW-1/C, which he refused to receive. As per this letter, he (petitioner) had been asked to join his duties immediately. It is further borne out from the statement of RW-1 that vide office order dated 23.7.2009, Ex. RW-1/J, the services of the petitioner had been dismissed. Since, the petitioner had failed to reply to the communications which had been issued to him, it cannot be said that he had been deprived, by the respondent, a right of being heard before the enquiry committee. The material, on record, goes to show that he had refused to turn up before the enquiry committee despite having been afforded number of chances.

14. Although, the petitioner in his affidavit Ex PW-1/A, has stated that no enquiry had been conducted against him and that he had not been served with the chargesheet but when regard is given to the affidavit Ex. RW-1/A of Vijay Kumar (RW-1), the evidence of the petitioner (PW-1) gets falsified. It is further borne out from Ex. RW-1/J (office order) that before dismissing the petitioner from service, the respondent society had also taken the approval from the Assistant Registrar. When such is the position, the petitioner fails to prove that he had not been afforded opportunity to defend himself in the enquiry and that without following the principles of natural justice, his services had been illegally terminated. I may mention that it was the conduct of the petitioner, itself, which kept him away from the enquiry which had been initiated against him by the enquiry committee. When such is the position, it cannot be said that he had not been afforded opportunity of being heard before dismissing him from service, Consequently, the petitioner fails to prove that his termination of services w.e.f. 11-1-2009 was in violation of the provisions of the Industrial Disputes Act, 1947. Consequently, my answer to this issue is "No".

Issue No. 2.

15. Since, the petitioner has failed to prove issue no. 1, this issue becomes redundant.

Relief.

As a sequel to my findings on the aforesaid issues. the claim of the petitioner is dismissed and as such the reference stands answered against him and in favour of the respondent. Let a copy of this award be sent to the appropriate government for publication in official gazette, File, after completion be consigned to records.

Announced in the open court today this day of 26th July, 2013 in the presence of parties counsels.

By order,
A.S. JASWAL,
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**IN THE COURT OF A. S. JASWAL, PRESIDING JUDGE, HP INDUSTRIAL
TRIBUNAL -CUM-LABOUR COURT, SHIMLA**

Ref. No. : 115 of 2007
Instituted on : 24-9-2007
Decided on : 6-7-2013

Heera Singh S/o Shri Chhaju Ram R/o Vilage Pandal (Jokhati), P.O. Badhokhari, Tehsil Nalagarh, District Solan, H.P. . .Petitioner.

VS

M/s Himalya Chemical Ladhi, P.O Ghanagughat, Tehsil Arki, District Solan. H.P. . .Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : None.

For respondent : None.

AWARD

The reference for adjudication, is as under:—

"Whether the action of the management of M/s Himalya Chemical Ladhi, P.O Ghanagughat, Tehsil Arki, District Solan. HP to terminate the services of Shri Heera Singh S/o Shri Chhaju Ram, ex-workman w.e.f. 1.1.1996 and not to paying him balance amount of ₹ 5,56,295/- wages without complying the provisions of the Industrial Disputes Act, 1947 alleged by the workman is proper and justified? If not, what relief of service benefits and amount of compensation to above aggrieved workmen is entitled to?"

2. The case of the petitioner is that he was initially appointed as supervisor, on 1.1.1996, by the respondent in order to supervise the various works of respondent as per appointment letter dated 1.1.1996. At that time, he had been assured to get ₹ 2,000/- per month as wages/salary along-with house rent, house electricity allowances, traveling allowance + water and diet allowances. He was to get holiday for every Sunday, in a month, and if he had worked for any holiday, he was to get wages for the same. After one year of continuous service, he was promoted and appointed as manager by the respondent and his monthly salary was increased from ₹ 2,000/- to ₹ 4,000/- per month along-with other allowances. In this way, he had been performing his duties, to the

satisfaction of his superiors, without any complaint, by completing 240 working days in each calendar year. However, the respondent had been very irregular in making the payments of monthly wages/salary + other allowances to him. It is alleged that he is entitled to the following amount on account of monthly wages/salary, house rent etc.

a. Dues on account of salary upto 31/12/2005 after adjustment of the payments of monthly wages/salary being made from time to time.	₹ 285830.00
b. House rent upto 31/12/2005	₹ 36,800.00
c. Interest on due salary and house rent upto 31/12/2005	₹ 18000.00
d. Miscellaneous charges	₹ 816.00
e. Amount spend by the petitioner as advocate fee, personal expenses and other miscellaneous expenses incurred for perusing the cases in different courts out of his own funds on the orders of the respondents in case FIR No. 56/99 at Arki in Sate Vs. Hira Singh in ACJM Court Nalagarh District Solan in Kamlesh Vs. Himalayan Chemical M.A.C.T. II, Nalagarh.	₹ 10000.00 ₹ 32000.00 ₹ 30000.00
f. Electricity charges of respondent No. 1 paid by the petitioner.	₹ 1840.70

Total amount due and recoverable

₹ 577286.70

up to 31/12/2005 by the petitioner from the respondent.

Besides, the aforesaid amount of ₹ 577286.70, he is entitled for future wages/salary along-with other benefits. Although, he had orally requested the respondent to pay the above mentioned dues, but of no avail. It is also alleged that he had given a demand notice and in consequence thereof, the Labour Inspector-cum-Conciliation Officer, Solan, had initiated conciliation proceedings on 25.8.2005. Although, the respondent had been called upon on 1.10.2005 and 31.10.2005 to attend the conciliation proceedings but they failed to do the needful. Thus, the conciliation proceedings finally concluded on 31.10.2005. Thereafter, he (petitioner) had filed an application no. 27/2006 before this Court which was dismissed on ground of maintainability with liberty to approach the appropriate government for redressal of his grievances. Consequently, he (petitioner) approached the Labour Commissioner and the reference came to be made to this Court. It is further averred that he was retrenched without giving any prior notice and also paying compensation. Since, he had already rendered more than nine years of continuous service, the action of the respondent was in violation of the provisions of the Act. Against this backdrop, a prayer has been made to award him ₹ 5,77,286.70 as back wages and other dues along-with interest @ 12% per annum with cost of ₹ 5,000/-. It is further prayed that the direction be also issued to respondent to pay him (petitioner) future wages/salary along-with other dues.

3. The petition has been contested by raising preliminary objection qua maintainability. On merits, it has been averred that the petitioner has been paid all his dues till the time he was working with the respondent. It is further averred that after 7.4.2000, the plant was closed as there was dispute between the partners. It has been specifically denied that an amount of ₹ 5,77,286.70 is still due from the respondent towards the petitioner.

4. By filing rejoinder, the petitioner reaffirmed his own allegations by denying those of the respondent.

5. It is to be noted that on 6.7.2013, when the case was fixed before this Court, none appeared. This Court also took note of this fact that although, the reference had been received, in this Court, on 24.9.2007 but it failed to see its logical end. The manner, in which, this case remained to be adjourned, from time to time, compelled this Court to pass the final order when on the

fixed date *i.e.* 6.7.2013, none appeared for the parties. This Court has also considered this legal aspect that a reference received from the appropriate government cannot be dismissed in default. Thus, it was decided to answer the reference, on the basis of the material, whichever is available before this Court.

6. As per the contention of the petitioner, he had not been paid monthly wages/salary, house rent etc. amounting to total ₹ 577286.70 and further that his services had been retrenched in contravention of the mandatory provisions of the Act.

7. When regard is given to the reply, filed on behalf of the respondent, it is revealed that the claim of the petitioner has been specifically denied, as far as the aforesaid amount, in question, is concerned. It has been specifically averred that the petitioner had been paid all his dues till the time he continued to work with the respondent. It has further been explained that on account of dispute between the partners, the plant had to be closed on 7.4.2000. Although, it has been alleged by the petitioner that he had been retrenched without giving any prior notice and paying compensation but it has not been specifically mentioned that on which date, month or year his services had been retrenched. Although, he has claimed the amount, as aforesaid, *i.e.* ₹ 577286.70, but in support of his such contention, there is no substantive evidence. The aforesaid claim of the petitioner could have been proved by leading evidence which, in instant case, has not been led.

8. For the reason that on the fixed date *i.e.* 6.7.2013 neither the petitioner himself was present nor his Counsel and also that none was present for the respondent, I am of the view that this reference is required to be decided against the petitioner because from the material available before this court, he has been unable to prove his entitlement for the amount in question *i.e.* ₹ 577286.70 allegedly due from the respondent and further that his alleged retrenchment is in contravention of the provisions of the Act. Thus, what has been stated and observed above, I decide this reference against the petitioner and in favour of the respondent. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced:

6-7-2013

By order,
Sd/-
Presiding Judge
Labour Court, Shimla.

**IN THE COURT OF A. S. JASWAL, PRESIDING JUDGE, HP INDUSTRIAL TRIBUNAL
-CUM- LABOUR COURT, SHIMLA**

Reference No. : 55 of 2011
Instituted on : 22-11-2011
Decided on : 12-7-2013

Rishi Raj, (Retired Conductor) S/o late Shri Ram Lal Gupta R/o Village Mohari, P.O Shoghi, Tehsil and District Shimla HP through Shri R.L Dogra, General Secretary, Himachal Transport Works Union, Fay Lodge, Cart Road, Bus Stand Shimla-1. . *Petitioner.*

VS

Managing Director, Himachal Road Transport Corporation, Shimla, H.P. . *Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri J. C. Bhardwaj, AR

For respondent : Already exparte.

AWARD

The reference, for adjudication, is as under: —

“Whether demand of Shri R.L Dogra, General Secretary, Himachal Transport Works Union, Fay Lodge, Cart Road, Bus Stand Shimla-1 vide demand notice dated 25-5-2010 before the Managing Director, Himachal Road Transport Corporation for encashment of compensatory leave to Shri Rishi Raj, (Retired Conductor) S/o late Shri Ram Lal Gupta R/o Vilage Mohari, P.O Shoghi, Tehsil and District Shimla HP as such encashment was also allowed to Shri Sant Ram Retired Conductor who was similarly situated as Shri Rishi Raj, is legal and justified? If yes, to what relief and compensation Shri Rishi Raj (Retired Conductor) S/o late Shri Ram Lal Gupta is entitled to from the concerned employer?”

2. The case of the petitioner is that before his retirement, he had earned 60 days of compensatory leave, by working on the days of his weekly rest, on account of exigency of work and shortage of staff, at Reckong-Peo. Under lawful instruction of competent authority, he had performed operational duties on Sundays and other gazetted holidays. Although, he had requested the competent authority to make payment of compensatory leave but of no avail. Even, in this regard, he had made a written representation to the Managing Director of HRTC, wherein, request was made for payment of the accumulated compensatory leave but the needful was not done. However, he was informed by Dy. Divisional Manager (Admn.), HRTC that as per rules, payment for weekly rest cannot be allowed against compensatory leave as the same was not admissible in the corporation. It is further alleged that as per the information, got obtained under RTI Act, 2005, it was known that some employees of HRTC had been allowed the payment against the accumulated compensatory leave and only, for this reason, the present reference had to be made to this Court. Even, it was admitted by the Regional Manager, HRTC, Reckong-Peo, where the petitioner had remained posted, before his transfer to Shimla, that there has been accumulated 60 days in favour of the petitioner for his having worked on weekly rest and for the same, no payment was made to him. In a similar case, one Shri Sant Ram (Retired Inspector) had been paid his accumulated compensatory leave for 64 days, which was in his credit, before retirement, by the HRTC Depot. Solan. In spite of, for the prevalent practice to make the payment for the accumulated compensatory leave, the benefit was denied to the petitioner. On the same analogy on which said Sant Ram had been paid for his accumulated compensatory leave, the petitioner also deserves to be paid for his accumulated compensatory leave of 60 days.

3. Notice was issued to the respondent and it was represented by Shri C.D Negi, Advocate. Despite having been afforded opportunities, the respondent failed to file reply. In these circumstances, as per order dated 4-10-2012, the respondent was afforded last opportunity, to file its reply, on 17-11-2012, on which date, none appeared for the respondent and for this reason, it was proceeded against exparte.

4. By way of exparte evidence, the petitioner has examined himself and also tendered in evidence documents.

5. Exparte arguments heard.

6. It is not a disputed fact, as is apparent from the material on record, that before his retirement, the petitioner had earned compensatory leave for 60 days. The contention of the petitioner is that the compensatory leave, which he had earned by working on his weekly rest days and also performing operational duties on Sundays and other gazetted holidays, was required to be encashed, which the competent authority of respondent corporation, did not allow. When, the petitioner had been declined the encashment of the compensatory leave which he earned, then by taking resort to RTI Act, 2005, he got obtained information in respect of one Shri Sant Ram, Retired Inspector, who had encashed his compensatory leave for 64 days. On the same analogy, on which said Sant Ram (Retired Inspector) had been paid for his accumulated compensatory leave for 64 days, the petitioner also sought his claim to encash 60 days compensatory leave, which he earned before his retirement.

7. While appearing in the witness box as PW-1, the petitioner has supported all the material facts as stated in the claim petition including the letter, copy of which is Ex. PA, which had been sent by the Regional Manager, HRTC, Dhali to Regional Manager, HRTC Reckong-Peo. He also tendered, in evidence, letter Ex. PB, which was written by Regional Manager, HRTC, Reckong-Peo, to Regional Manager, HRTC Dhali. Ex. PB-2, is the letter which he (PW-1), had sent to Managing Director, HRTC, Shimla, requesting therein to release the payment of accumulated Sunday rest in his favour. Ex. PC, is the copy of letter which had been written by Regional Manager (L&L), HRTC, Shimla to the Public Information Officer, HRTC, Shimla whereby it had been informed that the compensatory leave will lapse like the casual leave after passing of calendar year and no such leave will be carried forward to the next year except the leave earned during the month of December. It has also been stated by PW-1 that when, his 60 days compensatory leave was not allowed to be encashed, he got obtained information under the RTI Act, 2005, in respect of Shri Sant Ram (Retired Inspector), posted at Solan. As per that information, copy of which is Ex. PF, it had been informed that the encashment order of 64 days of compensatory leave under section 26 of Transport Welfare Act, 1961 had been issued in favour of Shri Sant Ram, Retired Inspector (retired on 30.6.1999) vide office order endorsement no. HRTC-SLN-T06 Inspector/Compensatory/99-7236 dated 18.11.1999 in compliance to Head Office Memo No. HO:4-5/W.Rest/96-Lab dated 22.10.1999. Said Sant Ram had been made payment of the compensatory leave vide receipt Ex. PG/1.

8. From the evidence of the petitioner (PW-1), it has been proved that before his retirement, he had earned compensatory leave for 60 days, the encashment of which was not allowed to him by the competent authority. On having got the information under the Right to Information Act, 2005, he succeeded in proving that one Shri Sant Ram (Retired Inspector), had been made payment for his 64 days of compensatory leave and that the payment in this regard, he had received vide receipt Ex. PG/1. If, said Sant Ram (retired Inspector) who was working in the HRTC, could have been paid payment for the compensatory leave, which he had earned, before his retirement, on the same principle, the petitioner also becomes entitled to get his compensatory leave encashed. I may observe that separate rules/principles cannot be applied to the employees working in the same department/corporation. Since, the encashment of compensatory leave had been allowed in favour of Shri Sant Ram, Retired Inspector, the petitioner, on the same analogy, is also required to be made payment for his 60 days compensatory leave which he had earned by working on his weekly rest days and performing operational duties on Sundays and other gazetted holidays. It is further to be observed that the facts as stated by the petitioner, in his statement of claim and the evidence led in support thereof, have gone unrebutted for the respondent to have failed to contest the present proceedings. Consequently, for what has been stated and observed above, I hold that the petitioner is entitled for encashment of his 60 days compensatory leave which he had earned prior to his retirement and accordingly, the respondent is directed to make the payment to him for the said compensatory leave of 60 days. Thus, the reference which has been made to this Court, on the demand raised by Shri R.L Dogra, General Secretary, Himachal Transport Works Union, Fay

Lodge, Cart Road, Bus Stand Shimla-1 vide demand notice dated 25.5.2010 before the Managing Director, Himachal Road Transport Corporation for encashment of compensatory leave to Shri Rishi Raj, (Retired Conductor) S/o late Shri Ram Lal Gupta R/o Vilage Mohari, P.O Shoghi, Tehsil and District Shimla HP, stands answered in favour of the petitioner and against the respondent corporation. Let a copy of this award be sent to the appropriate government for publication in official gazete. File, after completion be consigned to records.

Announced in the open court today this 12th day of July, 2013.

By order,
A. S. JASWAL
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

**IN THE COURT OF A. S. JASWAL, PRESIDING JUDGE, HP INDUSTRIAL
TRIBUNAL -CUM- LABOUR COURT, SHIMLA**

Reference No. : 38 of 2010
Instituted on : 12-4-2010
Decided on : 3-7-2013

Sanjay Kumar Jhaa S/o Shri Mahavir Jhaa R/o Deepak Spinners Ltd. Baddi, District Solan,
H.P. Room No.-1 Polspin Colony, H.P. . .*Petitioner.*

VS

M/s Deepak Spinners Ltd., Baddi, District Solan. H.P. . .*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : None

For respondent : Shri Rajeev Sharma, Advocate.

AWARD

The reference, for adjudication, is as under: —

“Whether the action of Manager M/s Deepak Spinners Ltd., Baddi, District Solan H.P. to terminate the service of Shri Sanjay Kumar S/o Shri Mahavir Jhaa workman w.e.f. 8-8-2008 on the basis of domestic enquiry where he was not given ample opportunity of being heard, is legal and justified ? If not, to what relief the aggrieved workmand is entitled from the above employer ?”

2. Consequent upon the receiving of this reference in this Court, the petitioner had filed claim petition wherein he state that he was served with a frivolous chargesheet wherein it was alleged against him that on 8.8.2008 at about 10.00 AM, he had consumed liquor in his residential block and indulged in scuffle besides having abused his mother and wife. On account of his such acts, his mother and wife sustained injuries and the production of the company also got hampered

as its co-workers/employees gathered at the main gate. To the chargesheet, he had filed reply, dated 19.8.2008, and Shri Sanjeev Sharma, Advocate was appointed as an enquiry officer. As per the letter of the enquiry officer, he had been asked to appear at main gate on 2.9.2008 at 4.45 PM. On 2.9.2008, he appeared before the enquiry officer and was told that the next date would be intimated to him. Thereafter, he did not hear anything about the date of enquiry. Thereafter, on 15.10.2008, he wrote a letter to the respondent company in order to convey him the date of enquiry and to pay the suspension allowance as well as salary for the month of April, 2008 which was not paid to him. He also requested the respondent to take him back on duty. It is further said that vide letter dated 11.10.2008, he was intimated regarding the next date of enquiry, fixed for 1.11.2008, on which date, he appeared before the enquiry officer and the next date was fixed for 8.11.2008. On the fixed date, the respondent management sought time to produce its witnesses which it failed to produce on the subsequent dates. However, on 10.1.2009, the respondent examined three witnesses and he was given time to cross-examine the witnesses and also to produce his witnesses on 17.1.2009. Since, on the fixed date (17.1.2009), he was not well, he moved an application, in this regard. Thereafter, when he appeared before the enquiry officer, he was not allowed to participate in the enquiry. It is further said that the enquiry which had been conducted against him is a mere eye wash and was conducted without following the rule of law and principles of domestic enquiry.

3. By filing reply, the respondent has raised preliminary objections inter-alia that the petitioner has not approached this Court with clean hands and has suppressed the material facts and that he has been estopped to file the petition by his own acts and conduct. On merits, it has been alleged that on 17.1.2009, when the petitioner did not appear before the enquiry officer he was informed about the next date of hearing, which was fixed for 28.1.2009, through letter which was communicated to him but despite that he failed to participate in the enquiry. Again, he was intimated about the next date of hearing, fixed for 7.2.2009, but he again failed to appear. It is further pleaded that on having been afforded three opportunities, when the petitioner failed to appear before the enquiry officer, he was proceeded against *ex parte* and thereafter the case was fixed for 14.3.2009 for the evidence of the management. It is further averred that the petitioner had not participated in the enquiry proceedings despite having due intimation. When the enquiry report had been received, the petitioner had been issued 2nd show cause notice vide letter dated 13.4.2009, which was received by him and he replied the same vide letter dated 14.4.2009. On having perused his reply, his services were terminated/dismised w.e.f. 24.4.2009. Thus, the enquiry proceedings had been conducted in accordance with law and as per the principles of natural justice.

4. On the pleadings of the parties, the following issues were struck on 25-6-2011.

1. Whether the termination of the services of Shri Sanjay Kumar w.e.f. 8-8-2008 is in violation of the provisions of the Industrial disputes Act, 1947 ? ..OPP.
2. If issue No. 1 is proved in affirmative, to what relief the petitioner is entitled to ? ..OPP.
3. Whether the petitioner was in gainful employment ? ..OPR.
4. Relief.

5. Before, I proceed further it is pertinent to mention that although this case had been fixed for the evidence of the petitioner since 19-1-2011 but despite having been afforded several opportunities, he failed to lead any evidence in support of his case. Ultimately, when the petitioner could not lead any evidence despite having been afforded several opportunities, on 3-7-2013, this court ordered that on the basis of material available before it, this reference be decided accordingly.

6. For the reasons, to be recorded hereinafter, my findings on the aforesaid issues are as under :—

Issue no. 1 No.

Issue no. 2 Becomes redundant.

Issue no. 3 No.

Relief. Reference answered against the petitioner and in favour of respondent as per award.

Issue No. 1

7. The contention of the petitioner is to this effect that w.e.f. 8.8.2008, in violation of the provisions of the Industrial Disputes Act, 1947 and on the basis of domestic enquiry, in which he was not given ample opportunity, of being heard, his services were illegally terminated. In support of his such contention, the petitioner has failed to appear before this Court as his own witness despite having been afforded opportunities. It was for the petitioner to have proved that during domestic enquiry, he had not been given ample opportunity of being heard. For the reason that he had failed to examine himself, in support of his such contention or to lead any other evidence, I have been left with no other alternative but to hold that the action of the respondent to terminate his services on the basis of domestic enquiry is not illegal. Thus, my answer to this issue is “No”.

Issue No. 2

8. For the failure of the petitioner to have proved issue no.1, this issue becomes redundant.

Issue No. 3

9. In support of this issue, the respondent has not led any evidence. On the basis of material available before this Court and also the failure of the respondent to have led any evidence in support of this issue, it is not proved, on record, that the petitioner is gainfully employed. Thus, my answer to this issue is “No”.

Relief

As a sequel to my findings on the aforesaid issues, the claim of the petitioner is dismissed. Consequently, the reference stands answered against him and in favour of the respondent. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open court today this day of 3rd July, 2013.

By order,
A. S. JASWAL
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla
Camp at Nalagarh.

**IN THE COURT OF A. S. JASWAL, PRESIDING JUDGE, HP INDUSTRIAL
TRIBUNAL -CUM- LABOUR COURT, SHIMLA**

Ref. No. : 1 of 2013
Instituted on : 11-1-2013
Decided on : 5-7-2013

Workers of M/s Landis + Gyr Ltd., EPIP, Phase I, VPO Than Tehsil Baddi, District Solan through Shri Vishal Singh C/o Mahinder Kumar (near Time Techno Plast Ltd.,) Vilage Thana, P.O Baddi, District Solan, H.P. *..Petitioner.*

VS

The Factory Manager/Occupier M/s Landis + Gyr Ltd., EPIP, Phase I, VPO Than Tehsil Baddi, District Solan . *..Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : S/Shri Govind Sharma and Sunil Kumar, Workers.

For respondent : Shri Rajeev Sharma, Advocate.

AWARD

The reference for adjudication, is as under:—

"Whether demands raised by the workers of M/s Landis + Gyr Ltd., EPIP, Phase I, VPO Than Tehsil Baddi, District Solan through Shri Vishal Singh C/o Mahinder Kumar (near Time Techno Plast Ltd.,) Vilage Thana, P.O Baddi, District Solan, HP. Vide demand notice dated 29.5.2012 (copy enclosed) to be fulfilled by the management of M/s Landis + Gyr Ltd., EPIP, Phase I, VPO Than Tehsil Baddi, District Solan (pin code- 173205) are legal and justified? If yes, what monetary and other benefits the concerned workmen are entitled to from the above employer/management?"

2. On 5.7.2013, when the case was fixed before this Court, S/Shri Govind Sharma and Sunil Sharma workers of M/s Landis + Gyr Ltd., EPIP, Phase I, VPO Than Tehsil Baddi, District Solan appeared and stated that already, a settlement has taken place between the workers and management/respondent. On the said date, Shri Rajeev Sharma, Advocate was also present for the respondent along-with Shri Rajesh Thakur (HR). S/Shri Govind Sharma and Sunil Sharma (workers), aforesaid, also produced the registered settlement, so arrived at between the workers and management, before this Court.

3. Since, to this Court, it appeared that a settlement has already been taken place between the parties, as per registered settlement, produced, the composite statement of S/Shri Govind Sharma and Sunil Sharma (workers) was recorded. Shri Rajesh Thakur (HR) admitted, as per his separate statement, that a settlement, between the parties, has been effected vide Ex. PW-1/A. His such statement, made before this Court, was also signed/endorsed by Counsel Shri Rajeev Sharma, Advocate.

4. Since, as per Ex. PW-1/A, registered settlement, the dispute between the workers of M/s Landis + Gyr Ltd., EPIP, Phase I, VPO Than Tehsil Baddi, District Solan stands already

resolved, this reference stands answered in terms of the registered settlement Ex. PW-1/A which had been arrived at between the parties. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced:
5/7/2013

By order,
Sd/-
Presiding Judge,
Labour Court, Shimla.

[Authoritative English Text of this Department's Notification No. Ayur-A(3)-3/2009 dated 14th August, 2013 as required under clause(3) of Article 348 of the Constitution of India].

AYURVEDA DEPARTMENT

NOTIFICATION

Shimla-171002, the 14th August, 2013

No. Ayur-A(3)-3/2009.—In exercise of the powers conferred by proviso to Article 309 of the Constitution of India, the Governor, Himachal Pradesh is pleased to make the following amendment/corrections in the Recruitment and Promotion Rules for the post of Botanist, Class-II(Non-Gazetted), Recruitment and Promotion Rules, 2013 notified vide this Department Notification No. Ayur-A(3)-3/2009 dated 16th February, 2013.

1. Short title & Commencement.—(1) These rules may be called the Himachal Pradesh, Department of Ayurveda, Botanist, Class-II(Non-Gazetted), Recruitment & Promotion Rules, 2013.

(2) These rules shall come into force from the date of publication in the Rajpatra, Himachal Pradesh.

2. Amendment of Annexure-“A”.— (1) (a) Para-2 of the Column No. 6 in line three the word ‘contact’ before ‘appointment’ may be substituted as ‘**contract**’.

(b) Column No. 10 of Page No.-15 the words ‘whether By direct recruitment’ may be read as ‘whether **by** direct recruitment’.

(c) Column No. 11 of Page No. 15 the words ‘recruitment By promotion’ may be read as ‘recruitment **by** promotion’.

(d) The words ‘be taken into account’ appearing at second line of the Explanation-II(I) may be read as ‘be taken into **account**’.

(e) The word ‘provisio’ appearing in Explanation Page-18 may be read as ‘proviso’.

By order,
Sd/-
SANJAY GUPTA
Principal Secretary (Ayurveda).

AYURVEDA DEPARTMENT

CORRIGENDUM

Shimla-2, 12th August, 2013

No. Ayur-B(2)-2/2011.—Please read words “recruitment by promotion” in place of words “recruitment By promotion” appearing at Column No. 11 of Annexure-“A” of the Recruitment & Promotion Rules for the post of Anaesthetist, Class-I(Gazetted), issued/published vide this Department Notification No. Ayur-B(2)-2/2011 dated 26-02-2013.

By order,
Sd/-

Principal Secretary Ayurveda.

ब अदालत मैरिज ऑफिसर एवं उप-मण्डल अधिकारी (ना0), बड़सर, जिला हमीरपुर, हिमाचल प्रदेश

1. श्री तिलक राज पुत्र श्री मंगल सिंह, गांव जजरी, डा0 रैली जजरी, तहसील बड़सर, जिला हमीरपुर, हिमाचल प्रदेश।
2. सपना पुत्री श्री हरबंस लाल, गांव व डा0 निचार, तहसील निचार, जिला किन्नौर (हि0 प्र0)
.प्रार्थीगण।

बनाम

आम जनता

विषय.—इश्तहार प्रकाशित करने बाबत प्रार्थना—पत्र जेर धारा 15, स्पेशल मैरिज ऐक्ट, शादी दिनांक 9-8-2013 करने हेतु।

उपरोक्त प्रार्थीगण ने इस अदालत में प्रार्थना—पत्र जेर धारा 15 पेश किया है कि उन्होंने दिनांक 9-8-2013 को मन्दिर में शादी कर ली है। उनकी उपरोक्त शादी रजिस्टर्ड की जाए। अतः इस इश्तहार राजपत्र, हिमाचल प्रदेश द्वारा आम जनता को सूचित किया जाता है कि यदि इस शादी बारे किसी को कोई एतराज हो तो वह इस न्यायालय में दिनांक 16-9-2013 से पहले एतराज दर्ज करवा सकता है। बाद मियाद गुजरने के बाद कोई भी एतराज नहीं सुना जाएगा तथा उपरोक्त शादी जेर धारा 15, स्पेशल मैरिज ऐक्ट के तहत दर्ज कर दी जाएगी।

आज दिनांक 14-8-2013 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—

मैरिज ऑफिसर एवं उप-मण्डल अधिकारी (ना0),
बड़सर, जिला हमीरपुर, हिमाचल प्रदेश।

ब अदालत मैरिज ऑफिसर एवं उप-मण्डल अधिकारी (ना0), बड़सर, जिला हमीरपुर, हिमाचल प्रदेश

1. श्री जगदीश चन्द पुत्र श्री भादी राम, गांव करयाला, डा0 कठयाणा, तहसील बड़सर, जिला हमीरपुर, हिमाचल प्रदेश।
2. सुनीता देवी पुत्री श्री बन्सी राम, गांव करयाला, डा0 कठयाणा . प्रार्थीगण।

बनाम

आम जनता

विषय.—इश्तहार प्रकाशित करने बाबत प्रार्थना—पत्र जेर धारा 15, स्पेशल मैरिज ऐक्ट, शादी दिनांक 8-8-2013 करने हेतु।

उपरोक्त प्रार्थीगण ने इस अदालत में प्रार्थना—पत्र जेर धारा 15 पेश किया है कि उन्होंने दिनांक 8-8-2013 को मन्दिर में शादी कर ली है। उनकी उपरोक्त शादी रजिस्टर्ड की जाए। अतः इस इश्तहार राजपत्र, हिमाचल प्रदेश द्वारा आम जनता को सूचित किया जाता है कि यदि इस शादी बारे किसी को कोई एतराज हो तो वह इस न्यायालय में दिनांक 16-9-2013 से पहले एतराज दर्ज करवा सकता है। बाद मियाद गुजरने के बाद कोई भी एतराज नहीं सुना जाएगा तथा उपरोक्त शादी जेर धारा 15, स्पेशल मैरिज ऐक्ट के तहत दर्ज कर दी जाएगी।

आज दिनांक 14-8-2013 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
मैरिज ऑफिसर एवं उप-मण्डल अधिकारी (ना0),
बड़सर, जिला हमीरपुर, हिमाचल प्रदेश।

**Before the Marriage Officer (SDM), Sub-Division Nichar at Bhabanagar,
District Kinnaur (H. P.)**

In the matter of :

Shri Shashi Pal s/o Shri Menku Ram and Reeta Kumari d/o Shri Mansa Ram, District Kinnaur (H. P.) . . Applicant.

Versus

General Public

NOTICE

WHEREAS Shri Shashi Pal and Reeta Kumari has presented an application in this Court duly sported by an affidavit stating therein that they have solemnized marriage on 15th May, 2011 and have been residing at Reckong Peo since 15th May, 2011 as husband and wife. They have further requested to register their marriage.

Therefore, notice is hereby issued to General public if any one has any objection for registration of marriage, he/she may file his/her oral/written objection before the undersigned on or before 12-9-2013 failing which it will be presumed that nobody has any objection for registration of marriage and the order under the act *ibid* will be issued.

Issued under my hand and seal of the Court today on 12th August, 2013.

Seal.

Sd/-
*Marriage Officer (SDM),
Sub-Division Nichar at Bhabanagar,
District Kinnaur (H. P.).*